

November 17, 2004

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20051

Re: Docket No. R-1210

Dear Ms. Johnson:

This comment letter is submitted on behalf of NOVA Information Systems in response to the Federal Reserve Board's proposal to amend Regulation E and request for comment published in the Federal Register on September 17, 2004. Our comments are specific to electronic check conversion services.

NOVA Information System is a wholly owned subsidiary of U.S. Bancorp, with \$193 billion in assets. NOVA is the third largest payment processor, specializing in providing integrated credit and debit card payment processing, electronic check conversion, gift card solutions and other value-added services to more than 700,000 merchant locations in the United States and Europe. We partner with financial institutions, independent sales organizations, associations, government agencies and community banks to deliver integrated payments processing services to their merchants and retailers.

Electronic Check Conversion Disclosures

NOVA is in support to extend Regulation E coverage to merchants and other payees for the limited purpose of obtaining a consumer's authorization. They are entering into a payment transaction with their customer and are in the best position to provide clear and consistent notice about how the check will be converted and processed as an EFT transaction.

Electronic Check Conversion Disclosure

Disclosure Language

While NOVA agrees with consistent notice, the proposed disclosure to require specific funds movement timing is not endorsed, i.e., "When a check is used to initiate an electronic funds transfer, the funds may be debited from the consumer's account quickly." Due to various payment system processing methods and settlement timeframes used in the industry, the proposed disclosure may not be representative for all transactions. With the introduction of Check 21, it is feasible that a check may be accepted and processed electronically, however, if a substitute check is then required to complete the transaction, it may take longer to debit a consumers account.

Disclosure Notice Constitutes Authorization

It is NOVA's opinion that clear and conspicuous signage at the point-of-purchase obtaining the consumers authorization to process their check electronically, is sufficient and should not require written authorization too. From a merchant and consumer perspective, requiring a second signature (signed check and signed receipt) is time consuming and unnecessary. Merchants and consumers enter into a payment transaction and if the notice language is clear on how the merchant will process their check and the consumer continues with the payment transaction, then notice should constitute authorization.

Disclosure for NSF Service Fees

In today's paper environment, NSF Service Fees Policies are posted in merchant locations. NOVA supports the use of model language as a means to provide consistency and protections for those collecting NSF Service Fees as regulated by State Law. Disclosure in the electronic environment should be consistent with the paper environment, where signage is only required, not written authorization.

Disclosure For Each Transaction

For the point of purchase environment, disclosure for each transaction can be accomplished with disclosure through conspicuous signage. In other environments, it is not feasible to disclose for each transaction, particularly when the parties have entered in an installment and/or monthly payment agreement where a monthly bill is not sent and would not allow the opportunity to present a disclosure for each transaction. Consideration should be made for these type situations where an initial notice to the consumer to obtain their authorization to convert subsequent checks and process as an EFT transaction.

Timeframes

The Board should allow a minimum of twelve months from final ruling for any disclosure changes required at the point- of -purchase to allow for the education, change notification and distribution required to merchant and other payee locations.

Thank you for this opportunity to provide our comments.

Sincerely,

Gerri Calabrese
Senior Director, Electronic Check Services